

ESTTA Tracking number: **ESTTA93020**

Filing date: **08/03/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Tracy Porter Inc.		
Entity	Corporation	Citizenship	Wisconsin
Address	102 W. Jackson Street Ripon, WI 54971 UNITED STATES		

Correspondence information	John Porter President Tracy Porter Inc. 102 W. Jackson Street Ripon, WI 54971 UNITED STATES jp@tracyporter.com Phone:(920) 748-6700 x107
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Applicant Information

Application No	78720555	Publication date	07/04/2006
Opposition Filing Date	08/03/2006	Opposition Period Ends	08/03/2006
Applicant	WKI Holding Company, Inc. 11911 Freedom Drive, Suite 600 Reston, VA 201905629 UNITED STATES		

Goods/Services Affected by Opposition

Class 008. All goods and sevicees in the class are opposed, namely: Non-electric scissors, rotary cutters and blades, namely razzor blades
Class 016. All goods and sevicees in the class are opposed, namely: drawing rulers
Class 018. All goods and sevicees in the class are opposed, namely: carry-all bags

Attachments	Take N' Create opposition.pdf (2 pages)(365923 bytes)
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Signature	/John Porter, President/
Name	John Porter
Date	08/03/2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No. 78729555

For the mark:

TAKE 'N CREATE

Published in the Official Gazette on July 4, 2006

Tracy Porter Inc. (Opposer)

v.

WKI Holding Company (Applicant)

NOTICE OF OPPOSITION

Opposer: Tracy Porter Inc., a Wisconsin Corporation
102 W. Jackson St.
Ripon, WI 54971

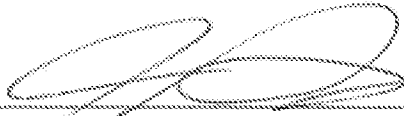
The above-identified opposer believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same.

The grounds for opposition are as follows:

1. Tracy Porter Inc. is the owner of the registered trademark, *Make & Create*® (registration No. 2644488) in International Class 020 (US Classes 002, 013, 022, 025, 032, 050) for the following Goods: Unfinished wood furniture and wooden accessories, namely picture frames, shelves, boxes, and mirror furniture frames, which was first used in commerce on May 30, 2001;
2. Tracy Porter Inc. markets and sells the above *Make & Create*® branded products through Michaels Stores, the number one arts and crafts retailer in the country with more than 900 stores;
3. Tracy Porter Inc. also markets a line of fabrics and frames under the *Make & Create* trademark for sale at all Jo-Anne Stores, the number one fabric retailer in the country with more than 800 stores;

4. Tracy Porter Inc. is developing several additional lines of products which will also be marketed and sold under the *Make & Create* trademark through Jo-Ann Stores;
5. Tracy Porter Inc. intends to continue to market and sell *Make & Create* branded products through a variety of craft stores, including Jo-Anne Stores and Michael's Stores for the foreseeable future;
6. The goods/services for which the Applicant is applying for the Intent-to-Use registration for the *Take N' Create* mark are primarily used in the craft and fabric markets;
7. We have invested countless hours and capital in the development of our *Make & Create* brand and the strong retail value associated therewith;
8. The *Take N' Create* mark is confusingly similar to and closely resembles our registered trademark, *Make & Create*®, which has been in use in the market for over 5 years. So closely, in fact, that we strongly feel that there would likely be confusion in the marketplace the *Take N' Create* mark be used in commerce. We believe strongly that the registration of this application would usurp the great value we have created in our brand. The registration of this application for the *Take N' Create* mark and subsequent use of the mark in commerce would thereby cause irreparable damage to our brand, and the goodwill associated therewith, for which we are entitled to relief.

By


John Porter, President
Tracy Porter Inc.

Date

8/3/6